REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-46 are pending in the application. Several original claims have been amended to better define the claimed invention. The amended claims find solid support in the original specification and drawings, e.g., FIGs. 4-7 and the corresponding text in the specification, e.g., paragraphs 0073 and 0074 of the published application. The Abstract has been placed in compliance with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The art rejections relying primarily on *Hsu* are noted. Applicants respectfully traverse the anticipatory rejections of all independent claims because the reference as applied by the Examiner fails to teach or disclose the claimed 1xEV-**DO** feature. *Hsu* discloses a completely different standard, i.e., 1xEV-**DV**. A person of ordinary skill in the art would at once recognize that 1xEV-DO and 1xEV-DV are not one and the same and cannot be considered to anticipate each other. A brief explanation of the differences between 1xEV-DO and 1xEV-DV can be found at

- http://en.wikipedia.org/wiki/Evolution-Data_Optimized and
- http://en.wikipedia.org/wiki/CDMA2000#CDMA2000_EV-DO.

The Examiner is invited to consult other, more reliable sources to verify Applicants' understanding that the standards are different and cannot be read on each other.

For at least the reasons presented above, Applicants respectfully submit that the anticipatory rejections of the independent claims, as well as the anticipatory or obviousness rejections of the dependent claims, are improper and should be withdrawn.

Applicants will nevertheless proceed with their comments on the distinctions between *Hsu* and the present invention as disclosed and/or claimed.

As to independent **claim 1**, Applicants respectfully submit that the reference as applied by the Examiner does not teach or disclose the claimed <u>BCMCS assignment ratio</u>. It is acknowledged that *Hsu* discloses a shared mode in which the "base station delivers one BCMCS session indicated by the common mac_id. Mobile stations search for that common mac_id in order to receive the corresponding BCMCS. The mac_id is carried out on the packet data control channel, F-PDCCH, and BCMCS content traffic is carried on the packet data channel, F-PDCH." *See*, for example, *Hsu* at paragraph 0079. However, the reference is silent on how the BCMCS and 1xEV-DV service share the resource in the shared mode, and fails to mention any BCMCS assignment ratio. Accordingly, *Hsu* as applied by the Examiner does not anticipate independent claim 1.

As to independent **claim 16**, the claim has been amended to highlight the BCMCS assignment ratio feature as discussed above with respect to claim 1. Amended claim 16 further specifies that "the inputted BCMCS assignment ratio information is used to <u>allocate the capacity of a specific 1xEV-DO FA to both the BCMCS and the 1xEV-DO service</u> for providing both the BCMCS and the 1xEV-DO service on said specific 1xEV-DO FA" which is neither disclosed, taught nor suggested by *Hsu*. It should be noted, again, that the *Hsu* is completely silent on how the BCMCS and 1xEV-DV service share the resource in the shared mode. Accordingly, *Hsu* as applied by the Examiner does not anticipate amended claim 16.

As to independent **claims 25 and 36**, the claims have been amended in manners similar to claim 16 and should be considered patentable over applied art of record for at least the same reasons presented with respect to claim 16.

As to independent **claim 42**, the claim has been amended to highlight the BCMCS assignment ratio information feature as discussed above with respect to claim 1. Amended claim

42 further recites

> controlling a 1xEV-DO service of the messages, which include both the 1xEV-DO service and the BCMCS, according to a 1xEV-DO message appointment ratio defined by the BCMCS assignment ratio information, wherein said controlling comprises:
> periodically determining whether or not the 1xEV-DO service of a message exceeds the 1xEV-DO message appointment ratio; and
> if the 1xEV-DO service of the message exceeds the 1xEV-DO message appointment ratio:
>> selecting at least one access terminal, which receives the 1xEV-DO service when the 1xEV-DO service of the message exceeds the 1xEV-DO message appointment ratio, as a shift-targeted access terminal;
>> assigning a specific 1xEV-DO FA to said shift-targeted access terminal; and
>> providing the 1xEV-DO service on the specific 1xEV-DO FA to each shift-targeted access terminal.

As discussed above, *Hsu* does not teach or suggest any BCMCS assignment ratio information. The reference also fails to teach or suggest a 1xEV-DO message appointment ratio, or the step of periodically determining whether or not the 1xEV-DO service of a message exceeds the 1xEV-DO message appointment ratio.

Paragraph 0081 cited by the Examiner is directed to how to switch the system of *Hsu* from the shared mode to a dedicated mode. The cited paragraph does not shed any light on how the 1xEV-DO service is controlled, by a 1xEV-DO message appointment ratio, during the shared mode. The claimed invention, to the contrary, defines how to control such 1xEV-DO service.

Paragraphs 0089-0090 cited by the Examiner are directed to the BCMCS part during the operation of the *Hsu* system. In contrast, the claimed invention, especially the last 4 sub-paragraphs of claim 42, defines the 1xEV-DO service of the messages.

Accordingly, Applicants respectfully submit that amended claim 42 is patentable over the art as applied by the Examiner.

The dependent claims are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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